

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA**

Carlson Marketing Worldwide, Inc., a)	
Delaware corporation,)	
)	Civil Action No.:
Plaintiff,)	
)	
vs.)	Complaint for Patent Infringement
)	
MillerCoors LLC, a Delaware corporation,)	Jury Trial Demanded
)	
Defendant.)	
)	
)	

Plaintiff Carlson Marketing Worldwide, Inc. (“Carlson Marketing”) for its complaint against Defendant MillerCoors LLC (“MillerCoors”), states and alleges as follows:

NATURE OF THE ACTION

1. This is an action for willful patent infringement arising under the patent laws of the United States, including 35 U.S.C. §§ 271 and 281-285, amongst others.
2. Plaintiff Carlson Marketing Worldwide, Inc., is the owner, by assignment, of all right, title and interest in United States Patent No. 6,039,244 (the "'244 Patent") entitled "Method of Building Up a Data Bank Containing Customer Data and/or for the Organization of a Rebate or Coupon System." A true and correct copy of the '244 Patent is attached as Exhibit A.
3. As set forth below, Defendant MillerCoors LLC has willfully infringed and continues to willfully infringe the '244 Patent.

PARTIES

4. Plaintiff Carlson Marketing Worldwide, Inc., is a corporation organized and existing under the laws of the State of Delaware with its principal place of business located at 1406 Xenium Lane North, Suite 150, Plymouth, Minnesota 55441.

5. Plaintiff Carlson Marketing Worldwide, Inc., is one of the largest marketing firms in the United States and provides marketing services that revolve around assisting clients in building relationships with employees, partners, and consumers as part of their efforts to increase sales.

6. Defendant MillerCoors LLC is a corporation organized and existing under the laws of the State of Delaware, with a principal place of business at 250 Wacker Drive, Chicago, Illinois 60606.

7. Defendant MillerCoors LLC manufactures, markets and sells products for use throughout the United States, including in Minnesota and within this judicial district. Upon further information and belief, Defendant MillerCoors manufactures, markets and sells beer and other products under the name Miller High Life.

JURISDICTION AND VENUE

8. This Court has subject matter jurisdiction over this matter pursuant to 35 U.S.C. §§ 271 and 281-285, as well as 28 U.S.C. §§ 1331 and 1338(a), amongst others.

9. The Court has personal jurisdiction over MillerCoors, and venue is proper pursuant to 28 U.S.C. §§ 1391 and 1400(b). MillerCoors has substantial contacts with this forum as a result of pervasive business activities conducted within the State of

Minnesota and within this judicial district, including, but not limited, to the execution of the promotional rewards program entitled Miller High Life Extras. Further, MillerCoors has committed and continues to commit acts of patent infringement, directly and/or through agents, intermediaries and/or third parties, by the ownership and operation of the Miller High Life Extras rewards program in Minnesota and within this judicial district. Finally, under the Minnesota Long Arm Statute, Minn. Stat. § 543.19, MillerCoors transacts business in Minnesota and this judicial district and has committed, or has caused to be committed, acts of patent infringement within and/or outside Minnesota that have caused injury in Minnesota.

FACTUAL BACKGROUND

10. MillerCoors owns, operates, and maintains—or controls and directs the operation and maintenance of—the Miller High Life Extras Loyalty Program and its accompanying website, <http://millerhighlife.promo.eprize.com/extras/>.

11. The Miller High Life Extras program is an Internet-based rewards program that allows participants to accumulate reward points in various ways. One way of earning points includes purchasing certain qualifying packages of Miller High Life or Miller High Life Light products and entering the unique concealed code found inside the packages on the program's website. Accumulated points earned from the purchases of such products may be applied and redeemed by participants for a variety of rewards on the program's website. *See* Exhibits B and C attached hereto. The Miller High Life Extras program is a promotional and incentive-based program to increase customer loyalty and sales of participating products, amongst other reasons.

12. Many participants of the Rewards Program reside in this judicial district.

13. Since at least March 2008, MillerCoors has owned and operated the infringing Miller High Life Extras Program throughout the United States, including within this District, without license from Carlson Marketing.

14. MillerCoors' infringement of the '244 Patent is willful. MillerCoors has been aware of the '244 Patent since at least April 2010 when Carlson Marketing contacted MillerCoors to offer them a license to use the '244 Patent. After months of stalled conversations between MillerCoors and Carlson Marketing on the topic of the license and the terms of a proposed License Agreement, in December 2010, MillerCoors notified Carlson Marketing that they had elected to "obtain a second opinion from new patent counsel with respect to [the Miller High Life Extras program] on whether we literally infringe any of the Claims in [Carlson Marketing's] Finsterwald patent." See Exhibit D attached hereto. This "second opinion" was undertaken because MillerCoors did not want to pay the license fee proposed in the License Agreement. *Id.*

**COUNT I - PATENT INFRINGEMENT
OF UNITED STATES PATENT NO. 6,039,244**

15. Carlson Marketing hereby restates and realleges the allegations set forth above in Paragraphs 1 through 14 and incorporates them by reference.

16. MillerCoors owns, operates, and maintains—or controls and directs the operation and maintenance of—the Miller High Life Extras Program. The Miller High

Life Extras Program employs a method of using unique concealed codes on participating products for the loyalty rewards program.

17. MillerCoors has infringed and continues to infringe the '244 Patent by utilizing and/or practicing the methods claimed in the '244 Patent, for example, by the operation of the Miller High Life Extras Program and its practice of employing unique concealed codes.

18. MillerCoors is liable for infringement under 35 U.S.C. § 271, including direct and/or indirect infringement of the '244 Patent, both literally and under the doctrine of equivalents.

19. MillerCoors does not have a license or permission to use the claimed subject matter in the '244 Patent for the operation of the Miller High Life Extras Program.

20. The infringement by MillerCoors of the '244 Patent has injured Carlson Marketing, and will cause Carlson Marketing further irreparable injury and damage in the future unless and until MillerCoors is enjoined from infringing said patent. MillerCoors is liable to Carlson Marketing in an amount that adequately compensates it for its infringement, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

21. MillerCoors has actual knowledge of the '244 Patent, and has willfully, deliberately and intentionally infringed the claims of said patent.

PRAYER FOR RELIEF

WHEREFORE, Carlson Marketing respectfully requests that the Court find in its favor and enter judgment against MillerCoors as follows:

- a. That the Court enter judgment in Carlson Marketing's favor and against MillerCoors on Count I of the Complaint;
- b. That MillerCoors be found to have infringed the '244 Patent in violation of 35 U.S.C. § 271;
- c. That MillerCoors be found to have willfully infringed the '244 Patent;
- d. That MillerCoors pay Carlson Marketing all damages which are available pursuant to 35 U.S.C. § 284, including, but not limited to, treble damages for any willful infringement by MillerCoors;
- e. That an injunction, temporary and/or permanent, issue enjoining MillerCoors and its agents, servants, officers, directors, employees, parent companies, subsidiaries, affiliates, joint venturers, and all persons acting in concert with them, directly or indirectly, from infringing, inducing others to infringe, or contributing to the infringement of the '244 Patent;
- f. If a permanent injunction is not granted, a judicial determination of the conditions for future infringement such as a royalty-bearing compulsory license or such other relief as the Court deems appropriate;
- g. That MillerCoors be ordered to make an accounting of its codes, participants, sales, profits, royalties, and damages owed to Carlson Marketing, including

a post-judgment equitable accounting of damages for the period of infringement of the '244 Patent following the period of damages established by Carlson Marketing at trial;

- h. A finding that this case is exceptional pursuant to 35 U.S.C. § 285;
- i. That MillerCoors pay Carlson Marketing's attorneys' fees pursuant to 35 U.S.C. § 285;
- j. That MillerCoors pay pre-judgment and post-judgment interest;
- k. That Carlson Marketing be awarded its costs, fees, and expenses in this action; and
- l. That Carlson Marketing be awarded any such other and further relief as this Court deems just, equitable, and proper.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Carlson Marketing respectfully requests a trial by jury of any and all issues on which a trial by jury is available under applicable law.

ROBINS, KAPLAN, MILLER & CIRESI L.L.P.

Date: February 15, 2011

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